

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, ) 1:05-cv-00594-LJO-SMS  
)  
Plaintiff, ) ORDER DIRECTING DEFENDANT AND  
v. ) DEFENDANT'S COUNSEL TO PAY  
) \$554.75 TO COUNSEL FOR PLAINTIFF  
STEVEN HEMPFLING, d/b/a/ FREE ) NO LATER THAN MARCH 10, 2008, AS  
ENTERPRISE SOCIETY, ) FEES AND EXPENSES RELATING TO  
) PLAINTIFF'S MOTION TO COMPEL AND  
Defendant. ) FOR SANCTIONS (DOCS. 108, 115)  
)  
)

Plaintiff is proceeding with a civil action in this Court.  
The matter has been referred to the Magistrate Judge pursuant to  
28 U.S.C. § 636(b) and Local Rules 72-302(c)(1) and 72-303.

On January 30, 2008, the Court granted Plaintiff's motion to  
compel responses to the first sets of interrogatories and  
requests for production, including Plaintiff's prayer for the  
reasonable expenses and attorney's fees, caused by Defendant's  
failure to provide discovery. The Court found that Defendant's  
noncompliance with his discovery obligations was not  
substantially justified and that there were no other  
circumstances making an award of expense unjust; the Court  
directed Plaintiff's counsel to submit information concerning the

1 nature and extent of Plaintiff's expenses. (Order pp. 5-6.) By  
2 declarations filed on February 12, 2008, Robert D. Metcalfe,  
3 trial attorney for the United States Department of Justice, Tax  
4 Division, and Susan Von Raab, the staff member responsible for  
5 directing the Tax Division's budget and financial management  
6 program, complied (Docs. 126 and 125, respectively). Their  
7 declarations provide a substantial and adequate basis for  
8 determining an hourly rate and the sum of hours expended.

9 The Court finds that Mr. Metcalfe reasonably expended 3.5  
10 hours on researching the law, drafting and reviewing the motion  
11 to compel discovery and associated documents; the Court declines  
12 to find the .5 hour spent on the clerical task of scanning the  
13 documents and filing them with the Court was reasonably expended.

14 The Court finds that a reasonable hourly rate for Mr.  
15 Metcalfe's services is \$158.50.

16 Accordingly, pursuant to Fed. R. Civ. P. 37(d), Defendant  
17 and Defendant's counsel ARE ORDERED to pay 3.5 times \$158.50, or  
18 \$554.75, to Plaintiff's counsel no later than March 10, 2008.  
19 IT IS SO ORDERED.

20 Dated: February 25, 2008

/s/ Sandra M. Snyder  
UNITED STATES MAGISTRATE JUDGE